THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1096 OF 2006

DATED:24.1.2006

Between:

G. Surender and others

…Petitioners

And

Government of Andhra Pradesh

Represented by its Secretary,

Roads and Buildings Department

Secretariat, Hyderabad.

and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1096 OF 2006

ORDER:

The petitioners are owners of premises bearing D.Nos.27-33-70, 27-37-115, 27-37-123, 27-37-112/A to 113, 27-37-114/1, 27-37-141 to 145/1, 27-43-1, 27-37-151, 27-37-119, 27-37-118, 27-37-274, 27-4-9, 27-4-10, 27-37-15 to 17/1, 27-37-18, 27-37-19, and 27-37-143, M.G.Road, Governorpet, Vijayawada. It is alleged that on 17.1.2006 the officials of the Vijayawada Municipal Corporation (VMC) came to the petitioners' premises and marked certain portions of the premises for demolition for widening the road. The petitioners are not willing to give consent to handover possession. The petitioners allege that the action of the respondents in proposing to demolish their premises without following due process is illegal and arbitrary.

Heard the learned counsel for the petitioners and the learned Standing Counsel for VMC.

After getting instructions in the matter, the learned Standing Counsel for VMC submits that if the petitioners are not willing to give their consent, necessary action would be taken in accordance with Section 147 of the Hyderabad Municipal Corporation Act, 1955 (the HMC Act, for short) for acquiring the land. The learned Counsel does not dispute that unless the petitioners are deprived of their property in accordance with due process of law, their right to enjoy the property cannot be denied.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners to part with their land for adequate compensation and, in case the owners are not willing to part with the possession on their own, the authorities have to initiate action under the provisions of the Land Acquisition Act, 1894, or A.P. Municipalities Act, 1965 or HMC Act as applicable to other Corporations in the State.

Accordingly, the writ petition is disposed of observing that unless and until requisite proceedings under Section 147 of the Act are initiated, the petitioners' right to enjoy their property cannot be denied nor VMC officials can demolish premises of the petitioners, without notice.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

24.1.2006

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Note: Issue CC by 25.1.2006.

(B.O)

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